

ORDINANCE NO. CO10.15.01.08.C1

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF CEDAR PARK, TEXAS TO AMEND CHAPTER 11 ZONING, ARTICLE 11.02 ZONING DISTRICTS AND REGULATIONS; CHAPTER 12 SUBDIVISION REGULATIONS, ARTICLE 12.03 PROCEDURES, ARTICLE 12.04 CONCEPT PLAN, ARTICLE 12.05 PRELIMINARY PLAN, ARTICLE 12.06 FINAL PLATS, ARTICLE 12.08 AMENDED PLATS, AND ARTICLE 12.15 ASSURANCES FOR COMPLETION OF IMPROVEMENTS; CHAPTER 13 SIGN REGULATIONS, ARTICLE 13.01 APPLICATION FOR PERMIT; AND CHAPTER 14 SITE DEVELOPMENT, ARTICLE 14.03 NONRESIDENTIAL AND MULTIFAMILY DEVELOPMENT TO AMEND REGULATIONS REGARDING THE EXPIRATION OF PERMITS (OA-14-010); PROVIDING FOR SEVERABILITY; PROVIDING FOR A REPEALER; FINDING AND DETERMINING THAT THE MEETING AT WHICH THIS ORDINANCE IS PASSED WAS NOTICED AND IS OPEN TO THE PUBLIC AS REQUIRED BY LAW.

WHEREAS, the City Council of the City of Cedar Park ("City Council") desires to remove overly strict time periods for the expiration of permits under the Zoning, Subdivision, Sign, and Site Development regulations in the City of Cedar Park Code of Ordinances; and

WHEREAS, the proposed time periods for the expiration of permits comply with State law, and specifically, Texas Local Government Code Chapter 245; and

WHEREAS, the City posted proper notice and conducted public hearings in accordance with Texas Local Government Code Chapter 211; and

WHEREAS, the City Council finds that the proposed time periods will afford developers greater certainty when developing a proposed project in the City; and

WHEREAS, the City Council finds that the proposed amendments to the various sections of the Code are in the best interest of the City and its residents.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF CEDAR PARK, TEXAS:

SECTION 1. That Chapter 11 Zoning, Chapter 12 Subdivision, Chapter 13 Sign Regulations, and Chapter 14 Site Development of the Cedar Park Code of Ordinances be amended as provided hereto in Exhibit A.

SECTION 2. That the provisions of this ordinance are severable and the invalidity of any word, phrase or part of this ordinance shall not affect the validity or effectiveness of the remainder of the ordinance.

SECTION 3. That all ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed.

SECTION 4. That it is hereby officially found and determined that the meetings at which this ordinance was introduced and passed were open to the public and that public notice of the time, place and purpose of said meetings were given all as required by law.

SECTION 5. This Ordinance shall be and remain in full force and effect from and after the date of approval.

READ AND CONSIDERED ON FIRST READING by the City Council of Cedar Park at a regular meeting on the 18<sup>th</sup> day of December, 2014, at which a quorum was present and for which due notice was given pursuant to Section 551.001, et. Seq. of the Government Code.

READ, CONSIDERED, PASSED AND APPROVED ON SECOND AND FINAL READING by the City Council of Cedar Park at a regular meeting on the 8th day of January, 2015, at which a quorum was present and for which due notice was given pursuant to Section 551.001, et. Seq. of the Government Code.

CITY OF CEDAR PARK, TEXAS

ATTEST:

/s/

Matthew Powell, Mayor

/s/

LeAnn M. Quinn, TRMC  
City Secretary

APPROVED AS TO FORM  
AND CONTENT:

/s/

JP LeCompte, City Attorney

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## **EXHIBIT A**

### **DELETE Sec. 11.02.275 Expiration of PD Zoning and Development Plan.**

#### **Sec. 11.02.312 Effect of Permit; Enforcement**

B. Expiration. If the permitted conditional or special use has not commenced within twelve (12) months of approval, the conditional or special use permit shall be deemed expired and, if the owner fails to demonstrate that the use has commenced, shall be subject to revocation by the Planning and Zoning Commission or City Council pursuant to this Division. For purposes of this Division, failure to commence the permitted conditional or special use shall be deemed noncompliance.

#### **Sec. 12.03.001 Procedures for plat approval**

(a) An application for a subdivision plat, including without limitation an application for approval or amendment of a concept plan, preliminary plan, final plat, replat, amending plat, plat vacation or other approval authorized by these subdivision regulations, shall expire on or after the 45th day after the date the application is filed, pursuant to Section 245.002(e) of the Texas Local Government Code, as amended, if:

- (1) the applicant fails to provide documents of other information necessary to comply with the City's technical requirements relating to the form and content of the permit application;
- (2) the City provides to the applicant not later than the 10th business day after the date the application is filed written notice of the failure that specifies the necessary documents or other information and the date the application will expire if the documents or other information is not provided; and
- (3) the applicant fails to provide the specified documents or other information within the time provided in the notice.

(b) The planning and zoning commission shall act on a plat within thirty (30) days after the plat is formally filed with the city, unless otherwise agreed to in writing by the applicant.

(c) The planning department shall review all plat applications in conjunction with other city departments and utility companies for compliance with this chapter and other applicable city codes and regulations.

#### **DELETE Sec. 12.03.003 Appeal from planning and zoning commission action**

### **12.03.003 Project Expiration**

Any project, as defined under Chapter 245 of the Texas Local Government Code, as amended, shall expire on the fifth anniversary of the date the first permit application was filed for the project, pursuant to Section 245.005 of the Texas Local Government Code, as amended.

### **Sec. 12.03.004 Variances**

(a) When an applicant can show that a provision of these regulations would cause unnecessary hardship if strictly adhered to and where, because of some condition peculiar to the site in the opinion of the planning and zoning commission, a departure may be made without destroying the intent of such provisions, the planning and zoning commission may authorize a variance.

(b) Variances from the terms of this chapter shall be granted by the planning and zoning commission under the conditions stated in the Texas Local Government Code, and provided further that the planning and zoning commission shall have no authority to grant a variance based on a special or unique condition which was created as a result of the method by which a person voluntarily subdivides that land, and provided that pecuniary hardship to the applicant, standing alone, shall not be deemed to constitute grounds for a variance.

(c) A variance may be applied for as part of a plat or replat request or as a separate request if the property is already platted. The applicant shall be responsible for providing all necessary information pertinent to the request, including the justification for such variance.

(d) Any applicant aggrieved by action on a variance by the planning and zoning commission may appeal to the city council within thirty (30) days from the day of such action and not thereafter. The city council may affirm, modify, or reverse the decision of the planning and zoning commission.

### **Sec. 12.04.003 Acceptance**

Concept plan acceptance does not ensure approval of a preliminary plan failing to meet specific requirements of this chapter, and approval does not comprise any vesting of development rights or any assurance that permits of any kind will be issued.

### **Sec. 12.04.004 Disapproval**

Upon disapproval of the concept plan, the concept plan is invalid and the applicant shall begin the concept plan approval process again, including paying all of the fees associated with this process.

### **Sec. 12.04.005 Expiration**

Acceptance of a concept plan shall remain valid after its acceptance by the planning and zoning commission unless a preliminary plan on all, or a portion of, the land governed by the concept plan remains valid and does not expire. Should the preliminary plan associated with the concept plan expire, that portion of the concept plan shall also expire. Should a preliminary plan apply to only a portion of the land governed by the concept plan, the

remaining portion of the concept plan that does not govern the preliminary plan and that did not expire along with the preliminary plan shall expire after two (2) years pursuant the Texas Local Government Code Section 245.005, as amended.

#### **DELETE Sec. 12.05.003 Procedure**

#### **Sec. 12.05.004 Approval**

The planning and zoning commission shall act on the request for preliminary plan approval.

(1) Upon approval of the preliminary plan, the applicant shall furnish one (1) Mylar reproducible copy of the approved plan to be kept on file at the city as public record.

(2) Preliminary plan approval does not ensure approval of a final plat failing to meet specific requirements of this chapter, and approval does not comprise any vesting of development rights or any assurance that permits of any kind will be issued.

#### **Sec. 12.05.005 Disapproval**

Upon disapproval of the preliminary plan, the preliminary plan is invalid and the applicant shall begin the subdivision approval process again, including paying all of the fees associated with this process.

#### **Sec. 12.05.006 Expiration**

(a) The approved preliminary plan shall expire two (2) years from the date such permit was approved if no progress has been made towards completion of the project, pursuant to Section 245.005 of the Texas Local Government Code, as amended.

(b) If a preliminary plan expires, it may be reinstated only upon resubmittal of the unaltered, approved plat to the planning and zoning commission. All new fees shall be paid as if the plat were initially being submitted.

(c) Should a final plat apply to only a portion of the land governed by the preliminary plan, the preliminary plan governing the remaining portion of the land shall expire after two (2) years pursuant to the Texas Local Government Code Section 245.005, as amended.

#### **Sec. 12.05.007 Extension**

The applicant may apply for an extension, in writing no less than thirty (30) days prior to the expiration of a preliminary plan, stating reasons for needing the extension and demonstrating pursuit of approvals for final plat in accordance with this chapter. Upon receipt of this written request, the planning and zoning commission shall grant a two (2) year extension so long as the preliminary plan remains consistent with the current Cedar Park Code of Ordinances.

#### **Sec. 12.06.003 Procedure**

After approval of the preliminary plan for a proposed subdivision, a final plat for that subdivision shall be submitted to the city for consideration by the planning and zoning commission. The preliminary plan for the subdivision must be valid at the time the final

plat for the subdivision is submitted to the city for consideration by the planning and zoning commission. The planning and zoning commission shall approve or disapprove any final plat unless otherwise allowed under the Cedar Park Code of Ordinances.

(1) Legible prints, as indicated on the application/checklist form shall be submitted to the planning department, along with the following:

(A) Completed application/checklist forms and the payment of all applicable fees listed on the application/checklist.

(B) Any materials or documents required by the planning and zoning commission as a condition of preliminary plan approval.

(C) A letter requesting any variances from the provisions of this chapter, if not previously approved as part of the preliminary plan.

(D) Any additional documents needed to supplement the information provided on the final plat.

(2) City staff shall review all final plat submittals for completeness at the time of submission. If, in the judgment of city staff, the final plat submittal substantially fails to meet the minimal informational requirements as outlined above or does not meet the requirements set forth in the application/checklist, it will not be accepted as filed.

(3) Prior to the planning and zoning commission meeting at which the final plat is presented, city staff shall review the plat for consistency with the preliminary plan as approved by the planning and zoning commission[,] as well as for consistency with city codes, policies and plans.

(4) City staff shall prepare a report analyzing the final plat submittal, as well as any comments received concerning the preliminary plan, and recommending either approval or disapproval of the final plat.

#### **Sec. 12.06.004 Approval**

If a final plat is approved by the planning and zoning commission, the corrected and signed final plat shall be submitted to the planning department with the appropriate number and format of electronic and paper copies as required by the planning department, for recording with the appropriate county clerk. The plat shall be filed and recorded within two (2) years of the date of final approval by the planning and zoning commission. Otherwise, the approval of the planning and zoning commission becomes invalid. Planning and zoning commission approval becomes effective on the date the planning and zoning commission takes final action on the plat.

#### **Sec. 12.06.005 Disapproval**

Upon disapproval of the final plat, the final plat is invalid and the applicant shall begin the final plat approval process again, including paying all of the fees associated with this process prior to action by the Planning and Zoning Commission.

#### **DELETE Sec. 12.06.006 Expiration**

## **DELETE Sec. 12.06.007 Extension**

### **Sec. 12.08.007 Expiration**

The amended plat shall expire two (2) years from the date such permit was approved if no progress has been made towards completion of the project, pursuant to Section 245.005 of the Texas Local Government Code, as amended.

### **Sec. 12.15.003 Completion of improvements**

(d) Assurances for completion shall be posted or improvements shall be completed within two (2) years of final plat approval, unless otherwise approved by the city. In those cases where a surety instrument has been required and improvements have not been completed within the terms of said surety instrument, the city may declare the applicant and/or surety to be in default and require that all the improvements be installed.

### **Sec. 13.01.005 Application for permit**

(6) Expiration of sign permits: A sign permit shall expire two (2) years from the date such permit was approved if no progress has been made towards completion of the project, pursuant to Section 245.005 of the Texas Local Government Code, as amended.

### **Sec. 14.03.006 Application and processing**

(a) The applicant shall submit a complete site development permit application to the planning department. Incomplete applications shall not be accepted.

(b) An application for a site development permit shall expire on or after the 45th day after the date the application is filed, pursuant to Section 245.002(e) of the Texas Local Government Code, as amended, if:

(1) the applicant fails to provide documents of other information necessary to comply with the City's technical requirements relating to the form and content of the permit application;

(2) the City provides to the applicant not later than the 10th business day after the date the application is filed written notice of the failure that specifies the necessary documents or other information and the date the application will expire if the documents or other information is not provided; and

(3) the applicant fails to provide the specified documents or other information within the time provided in the notice.

### **Sec. 14.03.007 Site development application expiration**

A complete site development permit application shall expire two (2) years from the date such application was submitted if no progress has been made towards completion of the project, pursuant to Section 245.005 of the Texas Local Government Code, as amended.

### **Sec. 14.03.009 Site development permit expiration**

(a) A site development permit shall expire two (2) years from the date such permit was approved if no progress has been made towards completion of the project, pursuant to Section 245.005 of the Texas Local Government Code, as amended.

(b) Any project, as defined under Chapter 245 of the Texas Local Government Code, as amended, shall expire on the fifth anniversary of the date the first permit application was filed for the project, pursuant to Section 245.005 of the Texas Local Government Code, as amended.